



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,322	09/12/2003	Laxmi Priya Parida	YOR920030299US1	9308

7590 09/23/2008
Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield, CT 06430

EXAMINER

COUGHLAN, PETER D

ART UNIT	PAPER NUMBER
----------	--------------

2129

MAIL DATE	DELIVERY MODE
-----------	---------------

09/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/661,322</p>	<p>Applicant(s) PARIDA ET AL.</p>	
	<p>Examiner PETER COUGHLAN</p>	<p>Art Unit 2129</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/David R Vincent/
Supervisory Patent Examiner, Art Unit 2129

Continuation of 11. does NOT place the application in condition for allowance because: With the final Office Action prosecution is closed. Arguments have been considered but are not persuasive. The applicant states that eliminating the restriction of the word 'abstract' within the specification does not introduce new matter. The Examiner disagrees. The word 'abstract' is a limiting variable and limits the invention to the domain of abstraction. The applicant further supports the Examiner's position by citing a portion of the specification '...are merely illustrative of the principles of this invention and that various modifications may be implemented by those skilled in the art without departing from the scope and spirit of the invention.'

Applicant argues that 'co-located' within the specification is the same as in dictionary.com. This does not address the issue of the rejection. What is the meaning of the word 'co-located' used within the specification? Using Fig. 3B does 'co-located' mean only the last four elements in level 250 (0110)? Does 'co-located' mean any layer 210-250 and its neighboring layer? Does 'co-located' mean elements within a layer? The specification is silent regarding what this means regarding the invention.

Regarding the word 'structural' is an adjective is correct, but that still does not explain what a structural relationship is. If the applicant uses Fig. 3A-B to define 'structural' then it is functional, due in fact that each level is dependent on the lower level and only result can be obtained for a given lower level input.

Regarding the 35 U.S.C. §101 rejection, the claimed invention does not have a practical application. Using the example in the previous office action, the invention lacks concreteness. The invention recites preemption. Reciting the passage supplied by the applicant, '...are merely illustrative of the principles of this invention and that various modifications may be implemented by those skilled in the art without departing from the scope and spirit of the invention.'

In the Office Action dated 12/5/2007, the Examiner objected to the amended specification under new matter. This also holds true for introducing information which was initially within the background of the specification, into the detailed description of the invention. The original specification had no real world application. Applicant makes the incorrect statement that the deletion of the cited phrase does not introduce new matter. This is wrong due to the reasoning the 'cited phrase' is a limiting factor. If the limiting factor is removed, the invention has increased domain applications.

Applicant argues that the invention transforms the input permutation. If the algorithm is followed, it does. In Fig 3B the input string results with a '14.' What does one do with a '14?' It should also be noted that the resulting '14' is unique to the specific input string. There is no transformation, only the renaming of the input. There is no discovery of permutation patterns.

Each 'permutation patterns' of applicant is disclosed by the algorithm which produces as output the complete set of all of the maximal (L, W) patterns that appear in at least K of the sequences in the set D of Floratos. (Floratos, p457 C1:26-43).